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UNITED STATES FEDERAL DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

JOHN MATTER, dba MATTER SYSTEMS and MARK FULTON, dba as INTEGRITY AUTOMATED SOLUTIONS,	)	Case No.: 8:15-cf-00978-CJC-AGR
Plaintiffs	)	<b>REQUEST TO CROSS-EXAMINE JOHN GUIST REGARDING FACTS RELATED TO GENEVA'S PRE-CEASE-AND-DESIST LETTER</b>
vs.	)	<b>INVESTIGATION OF CLAIMS OF INFRINGEMENT</b>
KEITH VOYSEY, Chief Technology Officer, GENEVA ENERGY PARTNERS, INC., a California Corporation, DAVID BALKIN, position unknown, CHRIST TAYLOR, position unknown, and DOES 1 through 50 inclusive,	)	<b>REQUEST TO RESET HEARINGS DATES TO AT LEAST 28 DAYS FROM SERVICE OF AMENDED NOTICES AND MOTIONS TO FEBRUARY 2, 2016</b>
	)	<b>REQUEST FOR JUDICIAL NOTICE</b>
	)	Complaint Filed: October 5, 2015
	)	Trial Date: None
Defendants	)	

1           **I. INTRODUCTION.**

2           The deadlines for serving Plaintiffs opposing papers are calculated below,  
3 according to the **Local Rules [L.R.]** and the **Federal Rules of Civil Procedure**  
4 **[F.R.C.P.]**.

5           Since an important issue is whether Genea, Inc. [GENEA or Genea]  
6 performed an adequate or indeed any claims infringement analysis before sending  
7 its cease and desist letter [C & D Letter] in June 2011, Plaintiffs seek to examine or  
8 cross-examine John Guist, formerly Genea's patent counsel.

9           Due to recent events, including the unilateral reassignment of this case to  
10 Judge David Carter, and his subsequent granting of Genea's motion to dismiss  
11 without a hearing, Plaintiffs request additional time to respond to Genea's  
12 amended notice of motion and motions to dismiss and for sanctions until at the  
13 earliest February 2, 2016.

15           **II. REQUEST FOR JUDICIAL NOTICE.**

16           The Court is requested to take judicial notice of the **Federal Rules of Civil**  
17 **Procedure [F.R.C.P]** and the following **Local Rules [L.R.]**:

19           **L.R. 15-3:** An amended pleading allowed by order of the Court shall be deemed  
20 served upon the parties who have previously appeared on the date the motion to  
21 amend is granted or the stipulation therefor is approved. Service of amended  
22 pleadings on a party who has not previously appeared shall be made as provided in  
L.R. 4.

23           **L.R. 7-8** Presence of Declarants - Civil Cases. On motions for and orders to show  
24 cause re preliminary injunctions, motions to be relieved from default and other  
25 motions where an issue of fact is to be determined (e.g., civil contempt, but  
excluding motions contesting venue and personal jurisdiction), not later than  
26 fourteen (14) days prior to the hearing, a party desiring to cross-examine any  
27 declarant who is not beyond the subpoena power of the Court and who is  
28 reasonably available to the party offering the declaration may serve by hand (or  
facsimile or by electronic filing) and file a notice of request to cross-examine such  
declarant. If the party offering the declaration disputes that the declarant is within

1 the subpoena power of the Court and reasonably available to the offering party,  
 2 such party shall serve and file an objection to the notice of request to cross-  
 3 examine not later than eleven (11) days prior to the hearing. The offering party  
 4 shall be under no obligation to produce the declarant unless the Court has granted  
 5 the request to cross-examine by written order not later than three (3) days prior to  
 6 the hearing. No declaration of a declarant with respect to whom such a request has  
 7 been granted shall be considered unless such declarant is personally present and  
 8 available at the hearing for such cross-examination as the Court may permit. The  
 9 Court may, in the alternative, order that the crossexamination be done by  
 deposition taken on two (2) days' notice with the transcript being lodged five (5)  
 days prior to the hearing. The Court may impose sanctions pursuant to these Local  
 Rules against any party or counsel who requests the presence of any declarant  
 without a good-faith intention to cross-examine the declarant.

10 **L.R. 7-3 Conference of Counsel Prior to Filing of Motions.** In all cases not listed  
 11 as exempt in L.R. 16-12, and except in connection with discovery motions (which  
 12 are governed by L.R. 37-1 through 37-4) and applications for temporary restraining  
 13 orders or preliminary injunctions, counsel contemplating the filing of any motion  
 14 shall first contact opposing counsel to discuss thoroughly, preferably in person, the  
 15 substance of the contemplated motion and any potential resolution. The conference  
 shall take place at least seven (7) days prior to the filing of the motion. . . .

16 **Federal Rules of Civil Procedure [F.R.C.P.] Rule 6(d):**

17 (d) ADDITIONAL TIME AFTER CERTAIN KINDS OF SERVICE. When a party may or  
 18 must act within a specified time after service and service is made under Rule  
 19 5(b)(2)(C), (D), (E), or (F), 3 days are added after the period would otherwise  
 20 expire under Rule 6(a).

21 **III. COMPUTATION OF DEADLINE FOR FILING OPPOSITION.**

22 Rescheduling the pending motions are called for for at least two reasons.

23 First, three (3) days are added to the deadline for electronic service of  
 24 moving papers. **F.R.C.P.** Rule 6(d). The original moving papers were served  
 25 electronically on December 12, 2015.

26 Second, Plaintiffs note that there was insufficient time to respond to the  
 27 amended notices and motions since their service on December 14, 2015 should  
 28

1 have been accomplished at least twenty-one (21) "days before the date designated  
2 for the hearing of the motion . . ." **L.R.** 7-9.

3 In view of the service of amended notices and motions on December 14,  
4 2015, the hearings could not be held on January 11, 2016.

5 Plaintiffs request that the hearings be re-calendared for February 2, 2015.

6 **IV. PLAINTIFFS REQUEST TO CROSS-EXAMINE JOHN GUIST  
7 ON THE HEARING DATE.**

8 Since the declarations of John Guist appear to be central to the moving  
9 papers, Plaintiffs seek to cross examine his according to **L.R.** 7-8 at any hearing.

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11 Dated: December 24, 2015  
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Respectfully submitted,

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